

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:

JOHN HENRY MAY, II,

Debtor(s).

Case No.: 2:16-bk-25696-WB

CHAPTER 13

**ORDER OVERRULING CHAPTER 13
TRUSTEE'S OBJECTION TO
CONFIRMATION OF DEBTOR'S PLAN**

Date: March 29, 2017

Time: 10:00 AM

Courtroom: 1375

On the above-captioned date and time, the Court held a confirmation hearing in debtor John Henry May, II's ("Debtor") bankruptcy case. Appearances were made as noted on the record. In advance of the confirmation hearing, the Chapter 13 trustee ("the Trustee") filed an objection to Debtor's first amended Chapter 13 plan ("Objection") (Docket No. 21). Debtor then filed a reply to the Trustee's Objection on March 27, 2017 (Docket No. 22). At the confirmation hearing, the Court heard oral argument from the parties and took the matter under submission.

In her Objection, the Trustee argues that the Court should dismiss Debtor's case because (1) Debtor has not proposed his first amended Chapter 13 plan ("Plan") in good faith, and (2) Debtor is improperly using the bankruptcy process to hinder or delay the foreclosure of his

1 home. As support for these contentions, the Trustee points to Debtor's prior Chapter 13 case
2 (Case No. 2:10-bk-54620-SK), where Debtor failed to pay 21 mortgage payments to the first
3 lienholder on his residence, Wells Fargo Bank, N.A. ("Wells Fargo"), but nevertheless received a
4 discharge. The Trustee argues that Debtor was able to benefit from the automatic stay in his
5 prior case and is now seeking to do so again in this case: thus, in effect, Debtor will ensure that
6 the automatic stay remains in place for 10 years, thereby preventing any further foreclosure
7 efforts with respect to his home.

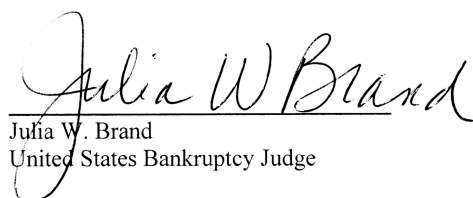
8 Having considered the Trustee's Objection, Debtor's Reply, and the arguments made by
9 counsel at the March 29, 2017 confirmation hearing, the Court finds no indicia of bad faith and
10 no abuse of the bankruptcy process here. Debtor has explained the issues that caused him not to
11 make his mortgage payments in his prior Chapter 13 case, and he has provided reasons why his
12 current Chapter 13 case will succeed. The Court finds this information credible. Further, Wells
13 Fargo has filed a proof of claim in this case and has not objected to confirmation of Debtor's
14 Plan. This circumstance is telling, since Wells Fargo is the aggrieved creditor. Finally, the Plan
15 proposes to pay 100% of the allowed general unsecured claims, an amount that is at least as
16 much as, if not more than, these creditors would have received in a Chapter 7 liquidation.

17 Therefore, for the reasons stated above,

18 IT IS HEREBY ORDERED that the Trustee's Objection is overruled.

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25 Date: April 5, 2017

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Julia W. Brand
United States Bankruptcy Judge